



## Frequently Asked Questions (FAQ) for Localities that have “Opted-Out” of the Virginia Stormwater Management Program (VSMP)

In 2014 the Stormwater Management Act, Va. Code § [62.1-44.15:24](#) et seq., was revised to limit the number of localities that are required to administer a local Virginia Stormwater Management Program (VSMP) to only those localities that operate Municipal Separate Storm Sewer Systems (MS4s). The revision also allowed non-MS4 localities to opt in or out of operating a VSMP program and established several criteria for localities choosing to opt out. The localities that are required to operate a VSMP and those that have opted in to the program began administering those programs on July 1, 2014.

The purpose of this FAQ is to answer questions that DEQ has received from opt out localities and explain those stormwater criteria that still apply to these localities. DEQ has also established a special “e-mail box” specifically for opt out localities to submit questions. Please send any questions not answered in this FAQ to [OptOutLocalities@deq.virginia.gov](mailto:OptOutLocalities@deq.virginia.gov).

### 1. **Question: What changes to local Erosion & Sediment Control programs are required by the revised Stormwater Management Act?**

The changes to locality Erosion & Sediment Control programs, including localities that opt out of operating a VSMP, necessitated by revisions to the Stormwater Management Act are as follows:

- a.** In accordance with § [62.1-44.15:27](#) of the Stormwater Management Act, localities that opt- out of the VSMP are still required to satisfy the new post development stormwater management *quantity* requirements contained in § [62.1-44.15:52](#) of the Virginia Erosion & Sediment Control law, which became effective July 1, 2014. Localities will need to ensure that their current erosion and sediment control ordinances include this requirement. The new stormwater management water quantity requirements apply to Erosion and Sediment Control plans approved on and after July 1, 2014.
- b.** In accordance with § [62.1-44.15:34](#), a locality that opts out of the VSMP shall provide a general notice to applicants of the state permit coverage requirement and report all approvals pursuant to the Erosion and Sediment Control Law (§ [62.1-44.15:51](#) et seq.) to begin land disturbance to the Department at least monthly.
- c.** In accordance with § [62.1-44.15:55](#) A, of the Erosion & Sediment Control Law, effective July 1, 2014, a Virginia Erosion and Sediment Control Program (VESCP) authority is required to obtain evidence of Virginia Stormwater Management Program permit coverage (i.e. Construction General Permit coverage) where it is required prior to providing approval to begin land disturbance.

**2. Question: Are localities subject to the Chesapeake Bay Preservation Act required to address stormwater?**

Yes. In accordance with § 62.1-44.15:27, a locality that is subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) shall adopt requirements to regulate Chesapeake Bay Preservation Act land-disturbing activities in accordance with § 62.1-44.15:28 of the Stormwater Management Act and the Virginia Stormwater Management Program (VSMP) regulations (9VAC25-870 [Section 51](#) and [Section 103](#)).

**3. Question: Can an opt-out locality that voluntarily administered a stormwater management ordinance prior to the recent changes to the Stormwater Management Act continue to administer stormwater management water *quality* requirements?**

No. In those localities that have elected to opt out of operating a VSMP, the Stormwater Management Act ([§ 62.1-44.15:27](#)) specifies that DEQ will operate the VSMP, address post-construction stormwater runoff *quality*, and administer the required design criteria contained in the VSMP regulations. Once they opt-out of operating a VSMP, localities are not authorized to implement the state stormwater management water *quality* requirements. Accordingly, all stormwater management plans submitted as part of development or redevelopment applications will be reviewed by DEQ staff in those localities.

**4. Why were the new post-development stormwater management water quantity requirements developed?**

The previous stormwater management water quantity requirements contained in the Erosion & Sediment Control regulations, known as Minimum Standard 19, were intended to protect properties and waterways downstream of development sites from sediment deposition, erosion and damage due to increases in volume, velocity and peak flows of stormwater runoff. Though these criteria have been implemented for more than three decades, they were not achieving the intended goal of protecting downstream properties and waterways. In light of this finding, the State adopted new criteria to provide greater protection of these areas in May of 2011. These new criteria became effective July 1, 2014.

**5. Will DEQ provide technical assistance in administering the new stormwater management water quantity criteria?**

Yes. There are stormwater compliance specialists in each of DEQ's regional offices. Contact information for the regional offices can be found at the following site:  
<http://www.deq.state.va.us/Locations.aspx>.

**6. Will the new stormwater management water quantity criteria be included in the current Erosion and Sediment Control training and certification classes?**

Yes.